

AMENDED IN ASSEMBLY MAY 11, 2011  
AMENDED IN ASSEMBLY MARCH 21, 2011  
CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

## ASSEMBLY BILL

**No. 53**

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**Introduced by Assembly Member Solorio**  
**(Coauthors: Assembly Members Davis, Furutani, Mendoza, and**  
**Portantino)**  
(Coauthor: Senator Price)

December 6, 2010

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An act to add Article 10.2 (commencing with Section 927) to Chapter 1 of Part 2 of Division 1 of the Insurance Code, relating to insurers.

### LEGISLATIVE COUNSEL'S DIGEST

AB 53, as amended, Solorio. Insurers: procurement contracts: women, minority, and disabled veteran business enterprises.

Existing law requires each admitted insurer to provide information to the Insurance Commissioner on all of its community development investments and community development infrastructure investments in California.

This bill would require that each admitted insurer with California premiums written equal to or in excess of \$100,000,000 to submit annually to the commissioner, commencing July 1, 2013, a detailed and verifiable plan for increasing procurement from women, minority, and disabled veteran business enterprises, as specified.

The bill would require the commissioner to, among other things, establish guidelines for qualified admitted insurers to be used in establishing these programs, provide a report annually on the Department of Insurance's Internet Web site and to the Legislature on September

1 of each year on the progress of activities undertaken by each qualified admitted insurer in the implementation of these programs, and to develop and require admitted insurers subject to this bill to implement an outreach program to inform and recruit eligible business enterprises to apply for procurement contracts.

The bill would provide that any person, corporation, or other organization, through its directors, officers, or agents, that falsely represents a business as a women, minority, or disabled veteran business enterprise in the procurement of, or attempt to procure, a contract from an admitted insurer subject to this bill would be barred from participating in the program for up to 3 years from the date of the false representation, as provided.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Article 10.2 (commencing with Section 927) is  
2 added to Chapter 1 of Part 2 of Division 1 of the Insurance Code,  
3 to read:

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5 Article 10.2. Women, Minority, and Disabled Veteran Business  
6 Enterprises  
7

8 927. (a) The Legislature hereby declares that the essence of  
9 the American economic system of private enterprise is free  
10 competition. Only through full and free competition can free  
11 markets, reasonable and just prices, free entry into business, and  
12 opportunities for the expression and growth of personal initiative  
13 and individual judgment be ensured in all of the state's  
14 communities. The preservation and expansion of that competition  
15 is basic to the economic well-being of this state and that well-being  
16 cannot be realized unless the actual and potential capacities of  
17 women, minority, and disabled veteran business enterprises are  
18 encouraged and developed. The state's diverse composition propels  
19 economic innovation and growth, and the economy's full  
20 employment potential cannot be achieved if these communities  
21 are left underutilized. Therefore, it is the declared policy of the  
22 state to aid the interests of women, minority, and disabled veteran  
23 business enterprises in order to preserve reasonable and just prices

1 and a free competitive enterprise, to ensure that a fair proportion  
2 of the total purchases and contracts or subcontracts for  
3 commodities, supplies, technology, property, and services for  
4 ~~regulated insurance providers~~ *insurers* are awarded to women,  
5 minority, and disabled veteran business enterprises, and to maintain  
6 and strengthen the overall stability and growth of the state's  
7 economy.

8 (b) (1) The Legislature declares all of the following:

9 (A) The opportunity for full participation in our free enterprise  
10 system by women, minority, and disabled veteran business  
11 enterprises is essential if this state is to approach full employment  
12 of its human resources and improve economic efficiency and equity  
13 in opportunity.

14 (B) Public utilities and telecommunications companies, which  
15 have established short- and long-range women, minority, and  
16 disabled veteran business enterprise goals, are awarding 30 percent  
17 or more of their contracts to these business enterprises.

18 (C) Women, minority, and disabled veteran business enterprises  
19 have traditionally received less than a proportionate share of  
20 regulated procurement contracts.

21 (D) It is in the state's interest to expeditiously improve the  
22 economically disadvantaged position of women, minority, and  
23 disabled veteran business enterprises.

24 (E) The position of these businesses can be improved by  
25 providing long-range substantial goals for procurement by  
26 ~~regulated insurance providers~~ *insurers* of technology, equipment,  
27 supplies, services, materials, and construction work from women,  
28 minority, and disabled veteran businesses.

29 (F) That procurement also benefits the regulated insurance  
30 companies and consumers of the state by encouraging the  
31 expansion of the number of suppliers for procurements, thereby  
32 encouraging competition among the suppliers and promoting  
33 economic efficiency in the process.

34 (2) It is the purpose of this article to do all of the following:

35 (A) Encourage greater economic opportunity for women,  
36 minority, and disabled veteran business enterprises in the ~~ninety~~  
37 ~~billion dollar (\$90,000,000,000)~~ *one hundred sixteen billion dollar*  
38 *(\$116,000,000,000)* California insurance market.

39 (B) Promote competition among the suppliers of ~~regulated~~  
40 ~~insurance providers~~ *insurers* in order to enhance economic

1 efficiency in the procurement of contracts relevant to the insurance  
2 industry and contracts of the subsidiaries and affiliates of those  
3 insurance providers.

4 (C) Clarify and expand the program for the procurement by  
5 ~~regulated insurance providers~~ *insurers* of technology, equipment,  
6 supplies, services, materials, and construction work from women,  
7 minority, and disabled veteran business enterprises.

8 927.1. For the purposes of this article, the following definitions  
9 apply:

10 (a) “Women business enterprise” means a business enterprise  
11 that is at least 51 percent owned by a woman or women, or, in the  
12 case of any publicly owned business, at least 51 percent of the  
13 stock of which is owned by one or more women, and whose  
14 management and daily business operations are controlled by one  
15 or more of those individuals.

16 (b) “Minority business enterprise” means a business enterprise  
17 that is at least 51 percent owned by a minority group or groups,  
18 or, in the case of any publicly owned business, at least 51 percent  
19 of the stock of which is owned by one or more minority groups,  
20 and whose management and daily business operations are  
21 controlled by one or more of those individuals. The contracting  
22 admitted insurer shall presume that minority includes African  
23 Americans, Hispanic Americans, Native Americans, and Asian  
24 Pacific Americans.

25 (c) “Disabled veteran business enterprise” has the same meaning  
26 as defined in subparagraph (A) of paragraph (7) of subdivision (b)  
27 of Section 999 of the Military and Veterans Code, or any successor  
28 provision.

29 (d) To “control” means exercise the power to make policy  
30 decisions.

31 (e) To “operate” means to be actively involved in the day-to-day  
32 management and not merely officers or directors.

33 (f) “Women, minority, or disabled veteran business enterprise”  
34 or “WMDVBE” means an enterprise as defined in subdivisions  
35 (a), (b), or (c), respectively.

36 927.2. (a) (1) Each insurer admitted in California, with  
37 California premiums written equal to or in excess of one hundred  
38 million dollars (\$100,000,000) shall be required to submit annually  
39 to the commissioner, commencing July 1, 2013, a detailed and

1 verifiable plan for increasing procurement from women, minority,  
2 and disabled veteran business enterprises.

3 (2) These annual plans shall include short- and long-term goals  
4 and timetables, but not quotas, and shall include methods for  
5 encouraging contractors to engage women, minority, and disabled  
6 veteran business enterprises in subcontracts in all areas that provide  
7 subcontracting opportunities.

8 (b) The commissioner shall establish guidelines for all admitted  
9 insurers with California premiums written equal to or in excess of  
10 one hundred million dollars (\$100,000,000) to be utilized in  
11 establishing programs pursuant to this article.

12 (c) Each admitted insurer, with California premiums written  
13 equal to or in excess of one hundred million dollars (\$100,000,000),  
14 shall furnish an annual report to the commissioner regarding the  
15 implementation of programs established pursuant to this article in  
16 a form that the commissioner shall require, and at the time that the  
17 commissioner shall annually designate.

18 (d) (1) Notwithstanding Section 10231.5 of the Government  
19 Code, the commissioner shall annually report on the department's  
20 Internet Web site and provide a report to the Legislature on  
21 September 1 of each year on the progress of activities undertaken  
22 by each admitted insurer with California premiums written equal  
23 to or in excess of one hundred million dollars (\$100,000,000)  
24 pursuant to this article in the implementation of women, minority,  
25 and disabled veteran business enterprise development programs.  
26 The report shall include information about which procurements  
27 are made from women, minority, and disabled veteran business  
28 enterprises with at least a majority of the enterprise's workforce  
29 in California, to the extent that information is readily accessible.  
30 The commissioner shall recommend a program for carrying out  
31 the policy declared in this article, together with recommendations  
32 for legislation that the commissioner deems necessary or desirable  
33 to further that policy.

34 (2) In regard to disabled veteran business enterprises, the  
35 commissioner shall ensure that the programs and legislation  
36 recommended pursuant to paragraph (1) are consistent with the  
37 disabled veteran business enterprise certification eligibility  
38 requirements imposed by the Department of General Services and  
39 that the recommendations address themselves to only those disabled  
40 veteran business enterprises certified by the Department of General

1 Services. The Department of General Services shall, as requested  
2 by the Department of Insurance, advise and assist in the  
3 administration of this section.

4 (3) A report to be submitted pursuant to this subdivision shall  
5 be submitted in compliance with Section 9795 of the Government  
6 Code.

7 (e) The Legislature declares that each admitted insurer that is  
8 not required to submit a plan pursuant to subdivision (a) is  
9 encouraged to voluntarily adopt a plan for increasing women,  
10 minority, and disabled veteran business enterprise procurement.  
11 The commissioner may publicize participants and nonparticipants  
12 in the program.

13 927.3. (a) (1) The commissioner shall, by regulation, adopt  
14 criteria for verifying and determining the eligibility of women and  
15 minority business enterprises for procurement contracts.

16 (2) The commissioner shall adopt the Department of General  
17 Services' disabled veteran business enterprise certification  
18 eligibility requirements for verifying and determining the eligibility  
19 of disabled veteran business enterprises for procurement contracts,  
20 and shall not deem eligible those disabled veteran business  
21 enterprises that are not certified by the Department of General  
22 Services.

23 (3) The commissioner shall, to the extent possible, coordinate  
24 with the Public Utilities Commission for the sharing of WMDVBE  
25 identification and verification information.

26 (b) The commissioner shall ~~develop and~~ require each admitted  
27 insurer with California premiums written equal to or in excess of  
28 one hundred million dollars (\$100,000,000) to implement an  
29 outreach program to inform and recruit women, minority, and  
30 disabled veteran business enterprises to apply for procurement  
31 contracts under this article.

32 927.4. Any person, corporation, or other organization, through  
33 its directors, officers, or agents, that falsely represents a business  
34 as a women, minority, or disabled veteran business enterprise in  
35 the procurement of, or attempt to procure, a contract from a  
36 California admitted insurer with California premiums written equal  
37 to or in excess of one hundred million dollars (\$100,000,000)  
38 subject to this article, shall be barred from participating in the  
39 program for up to three years from the date of the false  
40 representation. In the case of a corporation or other organization,

1 this punishment shall be imposed on the corporation or other  
2 organization and every director, officer, or agent responsible for  
3 the false statements.

4 927.5. In order to facilitate the participation of women-owned  
5 businesses, minority-owned businesses, disabled veteran-owned  
6 businesses, and small businesses in contract procurement, any  
7 insurer subject to this article may consider the following measures  
8 to include those businesses in all phases of their contracting:

9 (a) Timely or progressive payments to those businesses.

10 (b) The provision of assistance to those businesses by securing  
11 contract payments to those businesses with letters of credit,  
12 negotiable securities, or other financing arrangements or measures.

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